

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GIUSEPPE MAROTTA, et al,

Plaintiff

v.

SUFFOLK COUNTY,

Defendant

DOCKET No.

05-10032

AFFIDAVIT OF RUSSELL T. HOMSY

I, Russell T. Homsy, on oath depose and state as follows:

- 1.I am an attorney in good standing in the Commonwealth of Massachusetts.
- 2.I currently represent the Defendants in the above-captioned action.
- 3.The parties have been actively trying to settle this case for the past eight months.
- 4.I drafted a Settlement Stipulation which sought to hire a Special Master, jointly with Plaintiffs' counsel, who would have found the facts and damages, if any, in accordance with the formula specified in the Stipulation.
- 5.The parties have been discussing the terms of the Settlement Stipulation for the past four months.
- 6.A number of legal issues raised by Plaintiffs' counsel were disputed throughout the discussions regarding the Settlement Stipulation.
- 7.Theses legal disputes were close to being resolved on a number of occasions, but the parties were never able to achieve a final agreement.
- 8.The parties agreed to have a final meeting between counsel and representatives of the Plaintiffs' collective bargaining unit to try and resolve the outstanding issues and agree upon a final Settlement Stipulation.
- 9.The Plaintiff served a Partial Motion for Summary Judgment.

10. In light of the settlement meeting, the parties agreed to extend the deadline for the Defendant's response to the Summary Judgment to a later date.

11. The Plaintiff agreed to assent to the Defendant's Motion to Extend the Deadline for the Defendant's Response to the Summary Judgment.

12. On the eve of the meeting, and prior to filing the Motion to Extend the Deadline, I was contacted by Plaintiff's counsel and told that they wanted to cancel the meeting because they thought it would be fruitless.

13. The parties continued negotiation and agreed to narrow the scope of the disputes in writing.

14. There was also agreement that the Defendant would be given additional time to respond to the Plaintiff's Summary Judgment motion if necessary.

15. The parties were also discussing a potential joint motion for a status review with the court to develop a briefing schedule whereby the Court would rule upon the legal disputes, which might bring a settlement resolution to this case.

16. The Plaintiff reduced his legal disputes to writing in an email dated November 29, 2007, but noted that he must seek client approval prior to agreeing to a request for a status review.

17. The Defendant has been unable to get in contact with the Plaintiff's counsel since then despite numerous telephone messages.

The forgoing is true and accurate to the best of my knowledge, information and belief.

Signed under the pains and penalties of perjury

/s/ Russell T Homsy

Russell T. Homsy
2007

Date: December 5,